

February 24, 2004

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Re: In the Matter of the St. Cloud Wastewater Treatment Plant NPDES
Permit; OAH Docket No. 7-2200-14439-2

Dear Counsel:

I have received emails from Mr. Hood and Ms. Brimmer regarding the procedures to be followed at the hearing, beginning on March 8, 2004, at 9:30 a.m. at the Minnesota Pollution Control Agency offices at 520 Lafayette Road, Saint Paul. My suggestions on the procedures are as follows:

With the receipt today of MCEA's reply, the second prehearing order on the supplemental direct testimony will be issued by Friday, February 27. There is no need for oral argument on these motions, so none will be scheduled.

No prehearing memoranda are requested in this matter. Two Court of Appeals decisions have been issued recently (***City of St. Cloud Wastewater Treatment Facility Request***, C3-03-75 (Minn.App. September 12, 2003). and ***ITMO the City of Owatonna's NPDES/SDS Proposed Permit Reissuance for the Discharge of Treated Wastewater***, A03-331 (Minn. App. January 6, 2004)). The issues to be addressed fall squarely within the holding of both those matters. A posthearing briefing schedule will be established at the close of the hearing.

Opening statements at the hearing are at the discretion of each party. Such statements should be brief (no more than ten to fifteen minutes). Each witness should identify the direct and supplemental testimony to be entered into the record. The witness should identify any changes or corrections that are to be made and the exhibits will then be offered into evidence. Witnesses are encouraged to review their direct and supplemental testimony and pre-mark any changes prior to the hearing.

Once the exhibits are entered into evidence, the witness can then be cross-examined. MCEA's witnesses will begin the hearing. Cross-examination will begin with the City and conclude with MPCA staff. Upon the conclusion of cross-examination, MCEA has the opportunity for redirect examination. The order of recross- and redirect examination will continue until that witness' testimony is concluded.

Once MCEA's witnesses have been examined, the City's witnesses will be cross-examined, first by MCEA, then by the MPCA staff, using the process described above. The MPCA staff will then introduce its witnesses. After all the parties have presented their cases-in-chief, rebuttal testimony will be entertained. Only new evidence will be accepted during rebuttal; summaries of prior testimony are not permitted.

The foregoing paragraphs address the issues in Mr. Hood's email and Ms. Brimmer's email of today. If counsel have further questions, please contact Michael Lewis, Staff Attorney, at 612/341-7610.

Very truly yours,

RICHARD C. LUIS
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